

But our hands aren't clean. Our mismanaged occupation is part of the story.

Right now, as the Afghan economy collapses and families face starvation, burying our heads in the sand is not a solution. We can find ways to save lives without unreasonably empowering the Taliban.

I yield the floor.

The PRESIDING OFFICER (Ms. ROSEN). The Senator from Arkansas.

FILIBUSTER

Mr. COTTON. Madam President:

Right now, we are on the precipice of a constitutional crisis. We are about to step into the abyss. I want to talk for a few minutes why we are on that precipice and why we are looking into the abyss.

Let me first ask a fundamental question: What is the crisis that calls for the undoing of two centuries of tradition? . . . Are . . . Senators merely doing their jobs as legislators, responding to a generalized public calling for the abolition of the filibuster? Clearly not. It is not the American people at large who are demanding detonation of the nuclear option.

[T]he nuclear option is being pushed largely by the radioactive rhetoric of a small band of radicals who hold in their hands the political fortunes of the President.

Constitutional scholars will tell us that the reason we have these rules in the Senate—unlimited debate, two-thirds to change the rules, the idea that 60 have to close off debate—is embodied in the spirit and rule of the Constitution. . . . That is what the Constitution is all about, and we all know it.

It is the Senate where the Founding Fathers established a repository of checks and balances. It is not like the House of Representatives where the majority leader or the Speaker can snap his fingers and get what he wants. . . . On important issues, the Founding Fathers wanted—and they were correct in my judgment—that the slimmest majority should not always govern. . . . The Senate is not a majoritarian body.

The bottom line is very simple: The ideologues in the Senate want to turn what the Founding Fathers called the cooling saucer of democracy into the rubber stamp of dictatorship. . . . They want to make this country into a banana republic where if you don't get your way, you change the rules! Are we going to let them? It'll be a doomsday for democracy if we do.

I, for one, hope and pray that it will not come to this. But I assure my colleagues, at least speaking for this Senator . . . I will do everything I can to prevent the nuclear option from being invoked not for the sake of myself or my party but for the sake of this great Republic and its traditions.

Those are powerful words, but they are not mine. Every word of my speech today was originally spoken by our esteemed colleague, the senior Senator from New York, CHUCK SCHUMER. Senator SCHUMER spoke so eloquently in defense of the Senate's rules, customs, and traditions when the fortunes of his party looked a little different. My, how times have changed. Now it is Senator SCHUMER's fingers that are hovering over the nuclear button, ready to destroy the Senate for partisan advantage.

Think about it. The narrowest majority in Senate history wants to break

the Senate rules to control how voters in every State elect Senators. Could there be a better argument to preserving the Senate's rules, customs, and traditions?

So, before it is too late, let us reflect on the wise and eloquent words of Senator SCHUMER's, words that are as true today as they were when he spoke them, even if Senator SCHUMER is singing a different tune today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Madam President, the Senate is designed to be a place where the Members of the minority party and the millions of Americans they represent are heard. In this Senate, the minority could not be any bigger. In fact, if the minority were any bigger, we would be in the majority. This is a 50–50 Senate, and it is no time to take away the protections that the Senate for almost 200 years has afforded to the minority. The considerations given to the minority are important not only to the Senators and the millions of people they represent, but I think they are important in how the country moves forward.

I served in the House. I like the House. I watch the House as closely as any Senator does. Every time the House changes, the House passes a bunch of pretty dramatic legislation. Then it comes to the Senate. That dramatic legislation they passed in the House doesn't go anywhere in the Senate. When the House changes again—and it has a number of times in the last 20 years—the other side comes in and passes legislation that reverses all of that and maybe does a little dramatic legislation of their own that also doesn't go anywhere when it gets to the Senate.

If all laws were passed by a simple majority, there would be the potential for the majority to rewrite the country's laws constantly, no matter how small the shift in power was. It is always a mistake, frankly, to act like you have a mandate if you don't have one. It is a mistake for the country to change direction dramatically before the country has had time to think about it. The bureaucratic whiplash could be enormous. The economic impact could be enormous of the changing policies on regulation and taxes and everything else in a dramatic way every time one side gets some small advantage over the other side.

For the past year, we have heard a constant refrain from our colleagues on the other side of the aisle that the legislative filibuster—the supermajority to move to finalize a piece of legislation—must be reformed. At the present moment, we are hearing it must be reformed only, maybe, for elections, that we should have a carve-out for elections. Just a few weeks ago, it had to be reformed to have a carve-out for the debt ceiling. I am sure, if we had done either of those things, in a few weeks, we would be talking about a third

carve-out. And what are we doing it for? We are doing it for what I see as a federalization of the election process.

When asked in a Morning Consult/POLITICO poll that was just released today—so this is something the American people have just weighed in on today. When they were asked which of the three voting ideas that were polled should be a top priority of the Congress in the voting area—one was reforming Congress's role in counting electoral votes; one was expanding voting access; one was expanding the oversight of the State changes in elections—they were all beaten by “none of the above.” “None of the above” got more votes in that poll than some of the top priorities the Democrats were talking about.

We hear that we have to extend the Voting Rights Act. We have even titled the Voting Rights Act after a person whom I served with in the House, whom I traveled with, whom I had a close friendship with—John Lewis. That would be a good reason for me to vote for the Voting Rights Act, and certainly I voted to extend the Voting Rights Act before. In fact, I would vote to extend the Voting Rights Act today, and I would even be more happy to vote for the Voting Rights Act today if it were the Voting Rights Act that just happened to be named for John Lewis. The Voting Rights Act in 1965 was 12 pages. The extensions have all been about the same size. This bill has another 110 pages of additional legislative things that don't deal with the principles of the Voting Rights Act at all; they deal with the Federal Government's taking over the election process.

We have seen our colleagues talk about this in one bill after another. I think the motives are pretty transparent right now; it is another way to break the filibuster. But we hear that the laws that States are passing—and by the way, the States have been passing election laws for the whole country, as it relates to their States, for a little over 200 years now. The Constitution was pretty specific as to who would conduct elections in the country and who would set the rules and regulations in the country for those elections.

We hear that these laws are very restrictive. Now, mostly, these laws are laws that the legislatures leaned forward, as they should have, in my opinion, in a pandemic environment. It was an election that, in at least 100 years, we had never conducted anything like with the pandemic experience we were in. So they leaned forward. They allowed things that had never been allowed before: more mail-in voting, voting from your car, voting from a parking lot, all sorts of things. Then those same legislatures looked back at what had happened as a result of that and said: Do we want to keep all of this as if we were going to have a pandemic every year or do we want to keep part of it? In every case that I have looked

at, the changes in election law made it easier to vote in 2021 than it was in the last election before the pandemic.

I would encourage all of my colleagues, who are such sudden experts on Utah and Iowa and other election laws, to look at the 2018 election laws and see how they compare. What the legislatures did was exactly what you would hope they would do—respond to a crisis and, when the crisis is over, evaluate how much of that we want to keep as part of our permanent system and how much of it was only in crisis.

What do these laws do?

In Utah, the State legislature determined it would be appropriate for the Lieutenant Governor, who is the chief election official of Utah, to get the names of deceased individuals from the Social Security Administration and give them to county officials, who would take their names off the rolls. That is listed as one of the things that make it harder to vote—well, harder to vote for dead people. That is fine. I, actually, asked this question in a hearing of someone—one of the election-monitoring people who said this was difficult.

I said: Well, what about that?

He said: The Social Security Administration is often wrong.

Well, if anybody is going to get something straightened out pretty quickly, it would be a living person who no longer is getting their Social Security check because the Social Security Administration had them on a list of people who were deceased. What a foolish argument that was for that to be a repressive thing.

In Georgia, the State legislature adjusted their mail-in ballot deadline to ensure voters who requested mail-in ballots got their ballots with enough time to cast them. They brought their date more in line with the advice of the U.S. Postal Service. The truth is that lots of States did this.

States like Georgia and Florida now include specific provisions in State law that allow for the use of drop boxes. In fact, they have to have at least one in every county. There were no drop boxes in Georgia anywhere before the 2020 elections. Now there have to be drop boxes everywhere, and it has to be understood where those locations can be found.

States like Iowa and Georgia implemented more early voting days than the so-called Freedom to Vote Act would require. In fact, these States had more days of early voting than many States that have Democrat-led legislatures, like New York and Connecticut and the President's home State of Delaware.

They also forgot that many Republican States, like Arizona, Florida, and Georgia, have already implemented no-excuse absentee voting.

I was an election official for 20 years, part of that as the chief election official in our State, the secretary of state. I am absolutely confident that nobody takes the security of the elec-

tions and the confidence in the elections and the ability to register and vote in an easy way more seriously than people who are directly answerable to their neighbors, if they are the local official, or to the people who vote for them, if they are the State official.

President Obama said in 2016 that the diversity of this statewide system was one of the strengths of our system—the State-run system—and one of the reasons it would make it really hard for any outside entity—any foreign entity, any outside group—to truly try to rig a national election.

I have got more to say. I am going to submit the rest of my remarks for the record. I am sure there will be more time to talk about this next week.

On ballot harvesting, 62 percent of people in one poll are opposed to ballot harvesting. Ballot harvesting is when you ask somebody to give you their ballot. You say: I will turn it in for you.

Well, maybe—who would know?

I will put it in the mail for you.

Who would know? If it never gets to the counting place, it just got lost in the mail.

One of the reasons it might have gotten lost in the mail is the ballot harvester knows, with almost certainty, that the way you marked your ballot is not the way the ballot harvester would prefer to have the ballots marked.

Seventy percent of Americans support voter maintenance. That is eliminated in many ways by the law being proposed.

One proposal even went so far as to tell States the kind of paper their ballots would be printed on. If you really want to make it easy to impact an election, be sure that somebody knows the exact paper that every entity in America prints their ballots on and gets some of that to use to try to divert the election and make the election less secure.

We are going to hear a lot about this over the next couple of days. I certainly would welcome the opportunity to have more time, and I am sure I will have more time, to talk about what is in these bills, both the State bills and the Federal bills, as opposed to what people are saying is in both bills.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Tennessee.

Mrs. BLACKBURN. Madam President, the Senator from Missouri is exactly right. We are going to hear so much about this, and the reason is, as the American people hear about this so-called election bill, what they are realizing is, it is not something that is going to make their local election safer. It is something that is going to put that power in Washington, DC.

Now, what we are hearing from the majority leader and the Democratic leadership is that they have got to get rid of the filibuster in order to push forward this election bill, adding States, packing courts—all of this laundry list of a socialist agenda that they are planning to execute.

So what I want to do today for a couple of minutes is just walk us down memory lane as to what people have had to say, what our Democratic colleagues have had to say about the filibuster.

In May of 2005, then-Senator Joe Biden came to the floor and he vigorously jumped into the middle of a debate over the filibuster. He said that things would go very wrong if his colleagues decided to blow up the rules to get their way. What is interesting about Senator Biden's position is that it had almost nothing to do with his policy goals.

Here is his quote:

Folks who want to see this change want to eliminate one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights, and they also have a consequence, and would undermine the protections of a minority point of view in the heat of majority excess.

He understood, at that point in time, the importance of preserving the Senate's institutional power and abiding by standards that not only welcome but require deliberation and compromise.

Well, what a difference a few years and a Senate majority can make. Today, we are having the exact same debate, but the power my Democratic colleagues won in the last election has changed their minds about breaking the Senate to get their way. The problem is, the Senate is not broken. It does not need their changes.

But the rules no longer matter to the majority leader, even though he said as recently as 2017:

[L]et us go no further down this road. I hope the Republican leader and I can, in the coming months, find a way to build a firewall around the legislative filibuster, which is the most important distinction between the Senate and the House. Without the 60-vote threshold for legislation, the Senate becomes a majoritarian institution like the House, much more subject to the winds of short-term electoral change.

Well, my, my, my, how about that? He understood the dangers of legislative whiplash, even when he was in the minority. So did my colleague Senator DURBIN, who said in 2018 that he believed that ending the filibuster would “be the end of the Senate as it was originally devised and created, going back to our Founding Fathers.”

Well, I am going to ask the Senators from New York and Illinois: What happened here? What changed their minds so drastically? They have done a 180.

I would ask the same question of many of my Democratic colleagues. In 2017, 32 Senate Democrats—yes, that is correct, 32, many of whom are still serving in this Chamber today—signed onto a bipartisan letter in support of the filibuster. Now, they, too, have changed their minds. It makes you wonder: What is everybody on the Democratic aisle drinking these days?

This is no way to run the world's greatest deliberative body, but it is a great way to destroy it. Between 2017 and today, many Senate Democrats

changed their minds about how to handle the filibuster.

Over the past year, we have watched Joe Biden and the Democrats attack more than one institution forming the foundation of this Nation. The Supreme Court, the First Amendment, the Second Amendment, limits on the power of the Executive, and, now, the Senate rules have all proved to be inconvenient to their agenda and ended up on the chopping block. That is where they are putting them.

My Democratic colleagues may be frustrated, but that is just too bad. The Senate was not designed to rubberstamp legislation that is so beligerently foolish it can't tempt a single Republican vote—not one. No.

The Senate was designed to protect the American people and the institution itself from shortsighted leadership.

My colleagues claim that all they are asking for is one teeny little carve-out—just one. But I would remind them that there is only so much carving you can do before you reduce the entire thing to dust. And based on their track record, we have no reason to trust that they will stop carving and put down the knife rather than use it to hold the Senate hostage the next time they can't scrounge up the votes to check something off their to-do list.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. SCOTT of Florida. Madam President, since the founding of our Republic, the Senate has existed to encourage extended debate and protect the rights of the minority party.

Over the centuries, as various political parties have risen and fallen from power, the Senate's rules have been respected and followed. One of those rules is the legislative filibuster, which protects the minority party's rights by requiring a 60-vote threshold to pass legislation in the Senate.

Unfortunately, many of today's Democrats in Washington only care about one thing: radically transforming this Nation into a new socialist state. And they will use any means necessary to keep their grip on the Federal Government.

Now we are seeing Democrat leadership in the Congress wield their historically narrow majority to push one partisan bill after another without even attempting to get Republican input or support. Instead of working together with their Republican colleagues, they are searching for ways to make it easier to jam through progressive, socialist policies without any compromise. Just look at the majority leader's most recent statements on the filibuster.

Last week, the majority leader wrote a letter to all Democrat Senators explaining his plans to fundamentally and permanently alter the rules of the U.S. Senate and change the legislative filibuster. His statements could not be more hypocritical or self-serving.

The legislative filibuster, which has been in place for decades, has been repeatedly defended as a vital and necessary rule to protect the minority party's rights, including by Barack Obama, Joe Biden, Kamala Harris, and even Senator SCHUMER.

In 2017, Senator SCHUMER urged then-Majority Leader MCCONNELL to "find a way to build a firewall around the legislative filibuster," which is the most important distinction between the Senate and the House.

He went on to say:

Without the 60-vote threshold for legislation, the Senate becomes a majoritarian institution like the House, much more subject to the winds of short-term electoral change. No Senator would like to see that happen, so let's find a way to further protect the 60-vote rule for legislation.

These are the direct quotes from the Senator from New York. He called the filibuster the most important distinction between the Senate and the House, and now he is turning his back on them.

Of course, my colleague from New York isn't the only one caught in a bind here by previous statements and actions. Just remember that, in 2018, the current Senate majority whip, Senator DICK DURBIN, said doing away with the legislative filibuster "would be the end of the Senate as it was originally devised and created going back to our Founding Fathers."

He further admitted: "We have to acknowledge our respect for the minority, and that is what the Senate tries to do in its composition and its procedure."

Or remember in 2017, when 32 Democrats signed a bipartisan letter urging Senate leadership to keep the sacred part of the Senate intact. Most of those same Senators who defended minority party rights are still in office today, but only one has expressed any opposition to Senator SCHUMER's plans to destroy the filibuster, now that he is in the majority.

And just last Congress, most of the Democrat caucus used a filibuster to block a police reform bill from my Republican colleague TIM SCOTT and a bill that would have protected newborn babies who survived attempted abortions.

So my Democrat colleagues think the filibuster is great when it works in their favor, but they can't stand it when it blocks their radical socialist agenda, an agenda we know the American people do not support.

So why the change of mind? Why are they willing to be so blatantly hypocritical and so obviously flip-flop? Because they know if they pull this off and pass this radical, dangerous bill to federalize elections, it will all but secure their power into the future. That is what we are talking about here.

Democrats want to push through this bill that will completely upend our current election system, and they are willing to abandon their principles and flip-flop on the filibuster if it means permanently maintaining power.

Senator SCHUMER admitted it earlier today on MSNBC. He said the quiet part out loud and explained that Democrat Senators are saying things like "I'll lose my election" or "We'll lose our majority" if they don't change the filibuster to pass their election takeover bill.

Democrats say this is about "voting rights." It isn't. The right to vote is more readily accessible and easily exercised by eligible voters across the country than ever before. This is really about federalizing our elections and enacting policies that they think will give them an advantage in future elections. And all along the way, they will revel in their hypocrisy and self-righteously pretend that they are "protecting democracy."

But make no mistake, a change to the filibuster won't protect democracy. It will ruin it.

Democrats in this Chamber can posture all they want, but the American people see them for what they really are: self-serving, power-hungry politicians.

We all know that if the Democrats' bill was good, if it included policies that would actually improve our Nation's elections, it would pass. But there is nothing in the bill worth voting for. The Democrats' bill is an assault on American elections. It will fuel voter fraud, waste taxpayer dollars on political campaigns and attack ads, and make it nearly impossible to conduct fair elections that our citizens can trust.

We need an end to this self-serving hypocrisy, and we need Members who will stand up for what is right. I am urging my Democratic colleagues to see past their party's own partisan, short-term interests, and I ask them to consider the health and future of our democracy. That is what the American people deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Madam President, just this week, we saw the College Football National Championship game. A lot of tremendous athletes engaged in tremendous feats of skill and strength, but I have to say, there wasn't an athlete on the field who demonstrated the flexibility that we are seeing in the U.S. Senate right now. We are today seeing Democrats in the Senate, with the active encouragement of President Joe Biden, engaging in not one but two partisan power grabs and doing them both with a twist. Let me explain.

Democrats are desperate to hold on to power. It is their No. 1 priority. It is more important than anything else. It is more important than jobs and our economy to Democrats. It is more important than getting kids back to school. It is more important than defeating COVID. Nothing matters more to today's Democrats than staying in power no matter what.

How do we know that? Well, the very first bill introduced in the House of

Representatives, H.R. 1, is a bill many of us call the "Corrupt Politicians Act." It is a bill designed to keep Democrats in power forever. That was NANCY PELOSI's No. 1 priority.

The very first bill introduced in this Chamber, S. 1, is likewise the "Corrupt Politicians Act," a bill designed to keep Democrats in power forever. It is the No. 1 priority of elected Democrats.

When that failed to get sufficient votes to pass, Democrats shifted to option 1B. Option 1B has the same objective—keep Democrats in power forever—but it is through a little twist, a sleight of hand. Now, Democrats want to subject every significant decision concerning voting to the unreviewable—in most instances—arbitrary power of an unelected bureaucrat in the Federal Department of Justice.

My State of Texas has 29 million people. Those 29 million people have democratic rights. They have rights to elect legislatures that reflect their views, their policies, their values. Do you know what Senate Democrats say? We don't care. We don't care what those 29 million people want; we, the Democrats, want to stay in power.

So let's take, for example, photo ID. I have in my wallet my driver's license. Most people do. Voter ID is a policy that is supported by the overwhelming majority of Americans. Roughly 80 percent of Americans support voter ID, requiring a driver's license to vote. Two-thirds of African-American voters support voter ID. It is overwhelmingly supported across the country.

Do you know who doesn't support it? Elected Democrats. Sadly, every single Democrat in this Chamber has been willing to go on board with proposals to strike down voter ID laws. Here is what the Democrats want to do: They want to say that even though the voters of Texas want voter ID because we want elections with integrity—we want to know that if you come in and vote and say your name is John Doe, that you are not somebody else pretending to be that person—congressional Democrats don't care. They want to have an unelected bureaucrat with the ability to strike that down—and likewise with ballot harvesting.

Ballot harvesting is one of the most corrupt practices in this country. It is the practice whereby paid political operatives go and collect the ballots of other people. So, for example, you have a young operative from the DNC come into a nursing home and go room to room. Now, some of those residents may no longer be competent to make a choice. They may not be aware of their surroundings. But for an unscrupulous operative, that doesn't stop them. That operative can sit there and say: Sir or ma'am, you want to vote for so-and-so, don't you? They can fill out the ballot for them.

Do you know what? If there is some obstreperous senior in a nursing home who says, "Gosh, I really want to vote for the other guy," well, it is very simple for the unscrupulous operative to

take that ballot—ah, this ballot is for the other guy—and magically it ends up in the trash, never gets mailed in. They can just mail in the ballots they agree with and throw away the ballots they disagree with.

There is a reason the majority of States have made ballot harvesting illegal: It invites voter fraud. By the way, it wasn't long ago when people on both sides of the aisle recognized this.

The most significant bipartisan effort examining voter fraud: the study of a bipartisan Commission called the Carter-Baker Commission. Baker is former Republican Secretary of State James Baker. Carter is former Democratic President Jimmy Carter. The Carter-Baker Commission concluded that voter ID was an important step to stopping voter fraud. The Carter-Baker Commission concluded that voter fraud was a real and significant problem undermining the integrity of elections. The Carter-Baker Commission identified ballot harvesting as one of the most dangerous practices encouraging voter fraud.

As I said, the Carter in Carter-Baker Commission was former Democratic President Jimmy Carter—hardly a rightwing Republican operative by any stretch of the imagination.

It used to be, when sanity was permissible in the Democratic Party, that people would acknowledge the obvious. Unfortunately, we are in hyperpartisan times. So, today, Senate Democrats want to be able to have laws on voter ID, want to have laws prohibiting ballot harvesting struck down by one unelected bureaucrat.

By the way, who is that bureaucrat? Currently, it is a woman named Kristen Clarke, head of the Civil Rights Division at the Department of Justice. Ms. Clarke is one of the most radical, partisan nominees ever to serve in the U.S. Department of Justice. She is one of the leading advocates in the country for abolishing the police.

By the way, every single Democrat in this Chamber voted to confirm her despite the fact that she is one of the leading advocates in the country for abolishing the police. She has been a hardcore, leftwing, partisan advocate her entire life.

Now, she is entitled to have her views. She is entitled to believe those views passionately. But here is what Senate Democrats want to do: They want to take this one person and say she can strike down the laws adopted by legislatures elected by 29 million Texans. That is extraordinary.

Now, what could justify such a thing? Well, we saw Joe Biden give an incredibly demagogic, racist speech accusing half the country of being racist, of being Bull Connor.

The Democrats say this is Jim Crow 2.0. You know, Madam President, ironically and I think inadvertently, the Democrats are telling the truth. They don't mean to be, but they are. What was Jim Crow 1.0? Jim Crow 1.0 was

laws that were written almost exclusively by elected Democrats. If you look at the authors of Jim Crow, they were Democrats, as were the founders of the Ku Klux Klan. The purpose of Jim Crow laws was to do one thing: stop the voters from voting Democrats out of office because, if you look at the African Americans who were freed from slavery, they were electing Republicans. In many instances, they were electing Black Republicans. And the Democrats didn't want that. How dare the voters select someone not from their party. So Jim Crow was written to strip the right to vote from the voters who dared to vote against Democrats.

Well, fast-forward to today. The "Corrupt Politicians Act" is Jim Crow 2.0. It is once again written by Democrats to strip the right to vote from the American people to prevent them from voting Democrats out of office.

Listen, a lot of Democrats are really nervous right now. Pretty much everyone in Washington recognizes that in November, we are going to see a wave election. Pretty much everyone in Washington understands that in November, Republicans are going to retake the House of Representatives, probably by a big margin, and there is a very good possibility we will retake the Senate as well.

Democrats can't defend their policies. They can't defend the rampant inflation that is hammering seniors and working-class people across the country. They can't defend the chaos at the open borders. They can't defend the jobs being destroyed. They can't defend the lawless and abusive vaccine mandates. And they certainly can't defend their catastrophic surrender and failure in Afghanistan.

It has gotten so bad that when Joe Biden and KAMALA HARRIS went down to the State of Georgia, Stacey Abrams, the Democratic candidate running for Governor in Georgia—and, I would note, Stacey Abrams still maintains to this day she won the last election. She insists the last election was stolen and she is the sitting Governor. Apparently this is a reelection campaign. Stacey Abrams refused to show up, to be seen with Joe Biden and KAMALA HARRIS. Even while Biden was giving this racially demagogic speech, which Stacey Abrams has made a career of doing, Ms. Abrams did not show up for the speech. She said she had a scheduling conflict.

The Presiding Officer and I have both served some time in the Senate. We have both seen instances where the President of the United States was visiting our home States. I can tell you, as a Senator, you make time to be there if you want to be there. It is clear that Ms. Abrams did not want to be there, that she looked at Joe Biden and KAMALA HARRIS and sees their poll numbers plummeting, she sees their policies failing, and she wanted to be nowhere near that.

So what is the Democrats' approach? If they can't win on the merits, if they

can't defend their policy failures, if they can't convince the voters, then let's go back to the Jim Crow policies the Democrats authored to begin with. This is Jim Crow 2.0: Strip away the power of the voters to make a choice, put an unelected bureaucrat in charge of election laws, and throw out the decisions of 29 million Texans.

I will tell the Presiding Officer this: Democrats don't get to claim they are defending democracy when they are literally taking away the rights of democratically elected legislatures. That is many things, but it ain't democracy. One unelected bureaucrat overruling 29 million Texans is not democracy; it is a power grab.

But I told you this was a power grab on top of a power grab with a twist. The second power grab is, how are they going to try to pass the "Corrupt Politicians Act"? They are going to do it by nuking the filibuster.

The rules of the Senate written in that book that sits on the dais in front of you say that to proceed to legislation takes 60 votes in this Senate. It takes 60 percent of the Senators. Those are the Senate rules. They are black and white. They are clear. If you don't like the Senate rules, there is a way to change that. You can amend the Senate rules. It takes 67 votes to amend the Senate rules.

A number of us have proposed amending the Senate rules. I myself have repeatedly gone to Democrats saying I would be happy to work with Democrats on proposals to amend the Senate rules to allow Senators on both sides to offer more amendments. Democrats haven't been willing to do so. Instead, what Democrats intend to do—what they want to do, what President Biden is urging them to do—is to break the Senate rules, to change the Senate rules. It is called nuking the filibuster.

If their plan is successful, Senator SCHUMER will stand up and seek a ruling from the Chair as to whether it takes 60 votes or 50 votes to proceed to legislation.

The Chair will say—if the Chair is following the rules—it takes 60 votes. And then Senator SCHUMER will move to reconsider the ruling of the Chair and overrule the ruling of the Chair and say: Even though the words on the page say 60 votes, from now on it is 50. It is another brazen power grab.

There may be some folks at home who are a little cynical of the partisan time we find ourselves in, who are skeptical of claims, perhaps, made by both sides. But maybe you are a Democrat at home. And I am a Republican. I am a conservative Republican. You might be saying: Do you know what? If it is CRUZ saying it, I am a Democrat; I don't believe him.

I understand this. This is a very partisan time. There are a lot of disagreements. So if you are a Democrat at home and you are inclined not to believe what I say, I am going to suggest, perhaps, some people you can believe.

I told you it was a double power grab with a twist. I want to point to you the

words of President Joe Biden. If you are not inclined to believe a Republican, maybe you will believe Joe Biden. Here is what Joe Biden said in 2019. This is not 1964. This is not 1954—2019, a couple of years ago. "Ending the filibuster is a very dangerous move."

If you are at home and don't believe Republicans, do you believe Joe Biden? Was he lying when he said "Ending the filibuster is a very dangerous move" or was he telling the truth? Because that is what Joe Biden said just a couple of years ago.

Now, maybe you say: Well, he was on a campaign. People say things. You can't hold him to fault for saying that. That is not fair.

OK, all right, so now you don't believe me, and you don't believe Joe Biden. But let's see if we can find someone else. How about someone who serves in this Chamber right now? How about someone who is the Senate majority leader right now? How about Senator CHUCK SCHUMER?

If you haven't actually watched this speech, I would encourage you to go pull out your phone and Google it. You can find it really easily. Senator CHUCK SCHUMER, in 2005, gave a speech. I am going read to you verbatim what he said. He said: "They want, because they can't get their way . . . to change the rules midstream."

What would be the effect of that? You change the rules midstream. You nuke the filibuster. What would be the effect of that? According to CHUCK SCHUMER, the effect of that is "to wash away 200 years of history." That is what SCHUMER says is the effect. "Washing away 200 years of history"—that sound serious.

Anything else?

"They want to make this country into a banana republic, where if you don't get your way, you change the rules"—"wash away 200 years of history . . . make this country into a banana republic."

That is pretty serious stuff. That ought to concern us. But at least that is the worst it gets, right? Well, actually, no. SCHUMER continued: "It'll be doomsday for democracy if we do."

There are reporters teeming the U.S. Capitol. Any reporter who wants to be something other than a partisan shill and mouthpiece for the Democrats ought to ask every single Democrat: Senator so-and-so, do you agree with CHUCK SCHUMER that ending the filibuster will turn our Nation into a banana republic? Do you agree, Senator so-and-so, that ending the filibuster would be doomsday for democracy?

And, by the way, if there are any reporters left who actually have journalistic ethics, you shouldn't just ask JOE MANCHIN and KYRSTEN SINEMA. Right now, they are the lone Democrats with the gumption to stand up for democracy. But you ought to ask all 50 of them, every single one of the Democrats: Do you agree with CHUCK SCHUMER that ending the filibuster is doomsday for democracy? And if not,

why? Is it just that your team is the one that can't get their way? Now it is your side that wants to change the rules midstream. Now it is your side that, if you don't get your way, you change the rules.

Was Joe Biden lying in 2019? Was Senator SCHUMER lying in 2005? I don't know. You ought to ask them. A double power grab with a twist: Jim Crow 2.0, seizing Federal elections, striking down the laws adopted by democratic legislatures, putting an unelected radical leftist bureaucrat in charge of elections with more power—this one leftist bureaucrat—than all 29 million people in the State of Texas, doing so by breaking the Senate rules to change the rules. And the twist is with a dose of hypocrisy—unusual even for this place.

Look, if a Senator serves long enough, there will be times when they may vote a little bit this way or a little bit that way. There are lots of Senators that have had tensions with prior positions. I cannot think of another time when a Senator has voted for something that he has called "doomsday for democracy." That is not just a little hypocritical. And, by the way, all the Democrats agreed with him. They were all standing shoulder to shoulder.

In 2005, when Senator SCHUMER said this, he was either lying or telling the truth. If he was lying, I guess you should ask him why he was lying. If he was telling the truth, I guess you should ask 48 Democrats who don't care why they are willing to vote for doomsday for democracy.

If you want to understand the dangers of this double power grab with a twist, look no further than the vicious, partisan, divisive, hateful speech President Biden gave, insulting half this country; oddly enough, blaming Republicans for the sins of his own party—the Democratic Party—who wrote Jim Crow and founded the KKK.

All of us were sitting outside the Capitol when President Biden gave his inauguration speech, when he talked about unity, when he talked about healing. Do you want to see the vicious partisanship that ending the filibuster will produce? You saw it. A double power grab, with a twist of hypocrisy.

If there is a Democrat in this Chamber who gives a damn about democracy, let me urge you: Don't vote for what your own leader has called "doomsday for democracy."

I yield the floor.

THE PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Madam President, the Senate is, indeed, a peculiar institution. Despite what some might expect, and despite how it might be portrayed from the outside, Senators genuinely strive to be collegial, even when—especially when—they hold strong political and policy disagreements. In fact, the Senate rules have strict prohibitions on insulting the character of another Member or a State. That is because debate is a fundamental part of the Senate. I

mean, it is part of our culture in this institution. That is how this institution earned the moniker as the world's greatest deliberative body.

Some in this body, unfortunately, want to change all that. They seek to trample over more than two centuries of precedent, procedure, and politeness. They are attempting to break the rules that require a two-thirds supermajority—67 votes—to change the rules. They want to ignore that requirement and stiff-arm this historic institution in a way that would obliterate the requirement that those in the majority hear the voices of and work with those in the minority.

That requirement—sometimes colloquially referred to as the filibuster—is one of the most powerful constraints or checks on human nature, not only in the Senate but in the entirety of the U.S. Government. If the filibuster were removed, everything from regulatory structures to tax rates, the size of the Supreme Court, the makeup of the military, the criminal code, and much, much more could change drastically every few years. Keeping track of the law and its fluctuating requirements would be impossible for the most capable of lawyers, let alone the average American subject to all those laws. Our business landscape would be obliterated under the ever-changing commands of the Federal Government. Americans would be worse off in almost every sense I can think of. In countless ways, the American people would be harmed by this unfortunate decision.

Our system is designed specifically to control those whims and those passions, to make sure that their impact on the law doesn't cause the law to become this ever-changing, ever-fluctuating creature that can't be anticipated.

Our Constitution was designed to protect the rights, the voices, and the influence of those not in the majority. Laws that significantly impact the lives of hundreds of millions of people should, in fact, be difficult to pass.

In fact, the Senate has applied these principles into almost every mechanism of the institution. Most laws pass by unanimous consent or by simple voice vote after hearty consideration and frequent amendments through a process known as the hotline. That would essentially cease to function if the minority had no significant influence. Opportunities for amending these often smaller and somewhat less controversial bills would be foreclosed, crippling the careful consideration needed. Bills would have to be forced through often on party-line votes over the objection, suspicion, or protest of the minority.

But beyond building consensus and maintaining the function of the Senate, the filibuster serves as the keel on a very large ship. It prevents the waves and passions of each new election from drastically changing the laws of the country. It is a stabilizer of sorts, one

that prevents our Nation's course from being jerked around to oscillating extremes.

I was asked recently if the Senate is broken. I responded by saying that the only sense in which I think the Senate is significantly broken, or at least undermined in the way that it is supposed to operate, is in its neglect of substantive debate and opportunities for amendments for each individual Member. The filibuster protects the remaining debate, amendment, and consideration available to Members of this body, whether those Members are of the majority party or of the minority party.

So removing the filibuster, on the other hand, would irreparably render the Senate beyond recognition. The partisan vitriol and disregard for opposing Senators would eat away at this place, at our norms, our customs, and, ultimately, our Republic.

Now, at least until recently, many Senate Democrats—most, in fact—held these beliefs as well. In 2017, 27 of them, including now-Vice President HARRIS, signed a letter urging the preservation of the filibuster. Many of those Members still serve today, and I encourage them to consider their past advice.

By the way, that was a letter I signed, along with nearly every Member of the Senate from the Republican Party. We signed on to that notwithstanding the fact that Republicans held majorities in the Senate and in the House and a Republican President was serving in the White House. We did so because even though some short-term gain could have been achieved by nuking the filibuster then, we all understood what I think we still all understand today, which is that it would inflict irreparable harm on the Senate, and even more than the Senate, on those represented here. It would irreparably harm the American people to do away with it.

Senator SCHUMER, the leader of this destructive current effort, has himself in the past given grave, dire warnings about what this tactic—making the filibuster a thing of the past—would mean. We heard many quotes today, and in one that sticks out in my mind in particular, he said that attempts like that to nuke the filibuster are “what we call abuse of power.” He also said in that same quote that even if you have 51 percent of the vote, you still don't get your way 100 percent of the time. He is absolutely right. That describes the Senate, it describes its rules, and it describes so much about how our system of government works. It even describes the system of checks and balances built into our Constitution.

The vertical protection of federalism says many of our laws—in fact, most of them—are supposed to be made at the State and local level and not within Washington, and the horizontal protection—that of federalism—says that we are going to have one branch that

makes the laws, one that enforces them, and one that interprets them.

In that same document, it gives both Chambers of Congress the authority to set our own rules. Even though the 60-vote cloture standard is not itself mandated by the Constitution, the authority to add it, to adopt it, as the Senate has, is in the Constitution, and its ends, more importantly, are entirely consistent with this principle of checks and balances, with this notion that Senator SCHUMER eloquently referred to. The mere fact that you have 51 percent of the vote doesn't entitle you to get your way 100 percent of the time. Now, this circumstance is particularly poignant given that he doesn't even have 51 percent of the votes in this Chamber, no. This is deadlocked 50 to 50.

He is also right that this is what we call an abuse of power. Indeed, breaking the rules to grab power is an abuse. This attempt is so transparent that even Senator SCHUMER has told the media that his Members are concerned about losing their elections and the majority if they can't use this tactic to federally take over our election system. It is sad, it is tragic, and it is unacceptable.

I warn them that the American people see through this ploy. They know what is happening, and they know why. They were promised a return to cordial statesmanship. They were promised unity. This attempt mocks both of these promises. It mocks the U.S. Senate. It mocks our system of checks and balances. Most tragically, it mocks the American people.

The PRESIDING OFFICER. The junior Senator from Iowa.

Ms. ERNST. Madam President, first, I would like to wish a very happy and healthy new year to you and to all of our staff and pages who make the Senate run so efficiently every single day and frequently late into the night. The world's most deliberative body has unpredictable hours, which all too often means missing important events with family because we are here going back and forth on the pressing issues of the day.

This is why we have a Senate, after all—to give voice to the various viewpoints of Americans from each State and then try to resolve those differences. It isn't always easy since, unlike the House of Representatives, the Senate's unique rules require us to work together across party lines.

I know what it is like to work with my Democratic friends. In fact, I was named as one of the most bipartisan Senators of either party in the past 25 years. That is what it takes to get things done here because the rules force us to reach consensus.

The Senate was created specifically to prevent a mob rule mentality. James Madison, the father of the Constitution, described the Senate as the “anchor” of the Federal Government that would act as a “necessary fence against fickleness and passion.” George



Washington famously said that the Senate was established to cool legislation passed by the House in the same way that a saucer cools hot tea.

Folks, we certainly have seen a lot of hot mess coming over from the House. It is very concerning that the saucer intended to cool heated passions is itself beginning to boil over as a result of hot air from within.

Senate Democrats are threatening to blow up the Senate to fundamentally change the U.S. Senate and to radically transform our country. It cannot be understated how detrimental this action would be to America. It would unravel two centuries of American representative democracy. It would silence millions of Americans and destroy what comity remains within this body.

I have to ask my colleagues, which side of history do you want to be on? Do you want to go down in history books as the ones who turned the Senate, the world's most deliberative body, into the House of Representatives?

The law of our land would dramatically sway back and forth, and the resulting political uncertainty would all but erase what little trust the people have in our governing institutions and lead to even greater political divisions. I don't think this is a future any of us want and certainly not the one that was promised by President Biden when he pledged—when he pledged—to the American people not to divide but to unify our country.

When the threat of blowing up the Senate arose during Mr. Biden's time in this institution, he spoke passionately against it. I don't often quote Joe Biden, but I would urge you all to listen to his full speech on the matter.

Madam President, I ask unanimous consent to have his speech printed in the CONGRESSIONAL RECORD following my remarks.

Then-Senator Biden warned:

History will judge us harshly, in my view, if we eliminate over 200 years of precedent and procedure in this body and, I might add, doing it by breaking a second rule of the Senate, and that is changing the rules of the Senate by a mere majority vote.

Senator Biden concluded:

This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party.

Flash-forward 17 years later. Joe Biden is still in Washington, and he and his Democratic counterparts are the ones who are exercising that arrogance of power.

Now as the President, Biden just yesterday declared:

We have no option but to change the Senate rules, including getting rid of the filibuster.

So how and why are we at a point where nuking the Senate could even be a possibility? Plain and simple: The Democratic leader, who has participated in hundreds of filibusters over the past 5 years—hundreds, folks; hundreds—wants to have his way regardless of the longstanding rules of this

institution, the viewpoints of other Senators, or even, folks—get this—the wishes of the citizens of his own State.

Just last week, the Democratic leader said the filibuster was being used to “embarrass the will of majority,” and therefore “the Senate will debate and consider changes to the Senate rules on or before January 17.”

Folks, it is not the Senate rules embarrassing the majority but, rather, their two-sided flip-flopping on the importance of the filibuster to this institution and to our democracy.

Not so long ago, the Democratic leader said that eliminating the filibuster would turn “the cooling saucer of democracy into the rubber stamp of dictatorship.” It will be “a doomsday for democracy.” Today, he is the one with the finger on the nuclear button, all because he can't get his way.

This is the kind of power grab you would expect from tyrants in socialist nations, who seem to be where the Democrats are taking many of their cues from these days. Tyranny is no way to run a democracy, and destroying the U.S. Senate for a power grab is certainly not the example we should be setting for the rest of the world.

But the hypocrisy doesn't end there, folks. Democrats are manufacturing hysteria that Republican-controlled States are placing what they consider “unfair restrictions” on voting as an excuse to blow up the Senate and thereby clear a pathway for the rest of their radical liberal agenda. The irony here is that New York, home of the Democratic leader, CHUCK SCHUMER, and Delaware, home of President Biden, have some of the most restrictive absentee voting laws in the entire country.

Just this past November, the Democratic leader's constituents—his constituents—overwhelmingly voted down a ballot initiative to allow absentee voting without providing an excuse and another proposal to permit unregistered voters from registering and then voting on election day. They were voted down—his constituents. So in New York, the only way to qualify for an absentee ballot is to be out of the country or sick or have a physical disability. No other reasons are permitted.

Now the senior Senator from New York is threatening to destroy the Senate to override the wishes of the residents of his very own State who voted against the policies he is trying to impose on every other State. Did you catch that, folks? He is overriding the will of the people in his own State. Does that sound like democracy to you? It is not Senate Republicans blocking the Democrat leader's agenda; it is his own constituents.

Folks, the reality is, this election takeover bill is just the beginning, used as an excuse by the majority leader to then break the Senate and strengthen his own grip on power.

This party boss mentality may work in New York, but, folks, the Senate is

not Tammany Hall. While Senate Democrats would have you believe Republicans are somehow limiting the rights of Americans to vote, they, in fact, are the ones plotting to silence millions of Americans.

The same partisans on the other side of the aisle who “boasted” of—air quotes right here, folks, you see them—they “boasted” just about a year ago of resisting. Just a year ago, they were encouraging resisting; filibustering and blocking just about every proposal or nominee put forth by the prior President.

Now they call this tool a threat to democracy. Remember, less than 2 years ago, following the very tragic death of George Floyd, the Senator from New York voted to block consideration of a police reform bill put forward by my friend Senator TIM SCOTT of South Carolina.

That is just one of the many other examples of commonsense bills the Democrats blocked for purely partisan reasons.

The real threat to democracy isn't the filibuster but those politicians who abuse the power with which they have been entrusted. The Democratic leader has already put a choke hold on democracy right here in the Senate, abusing his position to singlehandedly block other Senators from offering amendments to bills he chooses to bring to the floor.

If the majority wants to demonstrate a commitment to democracy, why not start right here in the Senate? Instead of threatening to have less deliberation, why not commit to more? Let's bring up bills that have already had broad bipartisan support, and let's allow more votes on amendments.

But rather than starting this new year with a resolution to take this approach and make the Senate a true example of democracy in action, where every voice is heard and respected, the Democratic leader penned each of us a bombastic letter written with the left's usual dramatic flair and theatrics, comparing the filibuster to a dead hand and promising to permanently alter the Senate unless we bend to his wishes.

The senior Senator from New York should leave the theater for Broadway, where it belongs. And before casting a vote that could fundamentally change the Senate forever, I would urge my Democratic colleagues to take some advice about the intended behavior of the Senate from our Nation's greatest statesman, George Washington, and cool it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RECORD

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Mr. BIDEN. Mr. President, my friends and colleagues, I have not been here as long as Senator Byrd, and no one fully understands the Senate as well as Senator Byrd, but I have been here for over three decades. This is the single most significant vote any one of

us will cast in my 32 years in the Senate. I suspect the Senator would agree with that.

We should make no mistake. This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party, propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights. It is nothing more or nothing less. Let me take a few moments to explain that.

Folks who want to see this change want to eliminate one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights, and they also have a consequence, and would undermine the protections of a minority point of view in the heat of majority excess. We have been through these periods before in American history but never, to the best of my knowledge, has any party been so bold as to fundamentally attempt to change the structure of this body.

Why else would the majority party attempt one of the most fundamental changes in the 216-year history of this Senate on the grounds that they are being denied ten of 218 Federal judges, three of whom have stepped down? What shortsightedness, and what a price history will exact on those who support this radical move.

It is important we state frankly, if for no other reason than the historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the Federal courts by emasculating the courts' independence and changing one of the unique foundations of the Senate; that is, the requirement for the protection of the right of individual Senators to guarantee the independence of the Federal Judiciary.

This is being done in the name of fairness? Quite frankly, it is the ultimate act of unfairness to alter the unique responsibility of the Senate and to do so by breaking the very rules of the Senate.

Mark my words, what is at stake here is not the politics of 2005, but the Federal Judiciary in the country in the year 2025. This is the single most significant vote, as I said earlier, that I will have cast in my 32 years in the Senate. The extreme Republican right has made Federal appellate Judge Douglas Ginsburg's "Constitution in Exile" framework their top priority.

It is their purpose to reshape the Federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsburg's radical views of the fifth amendment's taking clause, the nondelegation doctrine, the 11th amendment, and the 10th amendment. I suspect some listening to me and some of the press will think I am exaggerating. I respectfully suggest they read Judge Ginsburg's ideas about the "Constitution in Exile." Read it and understand what is at work here.

If anyone doubts what I am saying, I suggest you ask yourself the rhetorical question, Why, for the first time since 1789, is the Republican-controlled Senate attempting to change the rule of unlimited debate, eliminate it, as it relates to Federal judges for the circuit court or the Supreme Court?

If you doubt what I said, please read what Judge Ginsburg has written and listen to what Michael Greve of the American Enterprise Institute has said:

I think what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state.

Read: Social Security, workmen's comp. Read: National Labor Relations Board. Read: FDA. Read: What all the byproduct of that shift in constitutional philosophy that took place in the 1930s meant.

We are going to hear more about what I characterize as radical view—maybe it is unfair to say radical—a fundamental view and what, at the least, must be characterized as a stark departure from current constitutional jurisprudence. Click on to American Enterprise Institute Web site [www.aei.org](http://www.aei.org). Read what they say. Read what the purpose is. It is not about seeking a conservative court or placing conservative Justices on the bench. The courts are already conservative.

Seven of the nine Supreme Court Justices appointed by Republican Presidents Nixon, Ford, Reagan, and Bush 1—seven of nine. Ten of 13 Federal circuit courts of appeal dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush 1, and Bush 2; 58 percent of the circuit court judges appointed by Presidents Nixon, Ford, Reagan, Bush 1, or Bush 2. No, my friends and colleagues, this is not about building a conservative court. We already have a conservative court. This is about guaranteeing a Supreme Court made up of men and women such as those who sat on the Court in 1910 and 1920. Those who believe, as Justice Janice Rogers Brown of California does, that the Constitution has been in exile since the New Deal.

My friends and colleagues, the nuclear option is not an isolated instance. It is part of a broader plan to pack the court with fundamentalist judges and to cower existing conservative judges to toe the extreme party line.

You all heard what Tom DeLay said after the Federal courts refused to bend to the whip of the radical right in the *Schiavo* case. Mr. DeLay declared: "The time will come for men responsible for this to answer for their behavior."

Even current conservative Supreme Court Justices are looking over their shoulder, with one extremist recalling the despicable slogan of Joseph Stalin—and I am not making this up—in reference to a Reagan Republican appointee, Justice Kennedy, when he said: "No man, no problem"—absent his presence, we have no problem.

Let me remind you, as I said, Justice Kennedy was appointed by President Reagan.

Have they never heard of the independence of the judiciary—as fundamental a part of our constitutional system of checks and balances as there is today; which is literally the envy of the entire world, and the fear of the extremist part of the world? An independent judiciary is their greatest fear.

Why are radicals focusing on the court? Well, first of all, it is their time to be in absolute political control. It is like, why did Willy Sutton rob banks? He said: Because that is where the money is. Why try it now—for the first time in history—to eliminate extended debate? Well, because they control every lever of the Federal Government. That is the very reason why we have the filibuster rule. So when one party, when one interest controls all levers of Government, one man or one woman can stand on the floor of the Senate and resist, if need be, the passions of the moment.

But there is a second reason why they are focusing on the courts. That is because they have been unable to get their agenda passed through the legislative bodies. Think about it. With all the talk about how they represent the majority of the American people, none of their agenda has passed as it relates to the fifth amendment, as it relates to zoning laws, as it relates to the ability of Federal agencies, such as the Food and Drug Administration, the Environmental Protection Agency, to do their jobs.

Read what they write when they write about the nondelegation doctrine. That simply means, we in the Congress, as they read the Constitution, cannot delegate to the En-

vironmental Protection Agency the authority to set limits on how much of a percentage of carcinogens can be admitted into the air or admitted into the water. They insist that we, the Senate, have to vote on every one of those rules, that we, the Senate and the House, with the ability of the President to veto, would have to vote on any and all drugs that are approved or not approved.

If you think I am exaggerating, look at these Web sites. These are not a bunch of wackos. These are a bunch of very bright, very smart, very well-educated intellectuals who see these Federal restraints as a restraint upon competition, a restraint upon growth, a restraint upon the powerful.

The American people see what is going on. They are too smart, and they are too practical. They might not know the meaning of the nondelegation doctrine, they might not know the clause of the fifth amendment relating to property, they may not know the meaning of the tenth and eleventh amendments as interpreted by Judge Ginsburg and others, but they know that the strength of our country lies in common sense and our common pragmatism, which is antithetical to the poisons of the extremes on either side.

The American people will soon learn that Justice Janice Rogers Brown—one of the nominees who we are not allowing to be confirmed, one of the ostensible reasons for this nuclear option being employed—has decried the Supreme Court's "socialist revolution of 1937." Read *Social Security*. Read what they write and listen to what they say. The very year that a 5-to-4 Court upheld the constitutionality of Social Security against a strong challenge—1937—Social Security almost failed by one vote.

It was challenged in the Supreme Court as being confiscatory. People argued then that a Government has no right to demand that everyone pay into the system, no right to demand that every employer pay into the system. Some of you may agree with that. It is a legitimate argument, but one rejected by the Supreme Court in 1937, that Justice Brown refers to as the "socialist revolution of 1937."

If it had not been for some of the things they had already done, nobody would believe what I am saying here. These guys mean what they say. The American people are going to soon learn that one of the leaders of the constitutional exile school, the group that wants to reinstate the Constitution as it existed in 1920, said of another filibustered judge, William Pryor that "Pryor is the key to this puzzle. There's nobody like him. I think he's sensational. He gets almost all of it."

That is the reason why I oppose him. He gets all of it. And you are about to get all of it if they prevail. We will not have to debate about Social Security on this floor.

So the radical right makes its power play now when they control all political centers of power, however temporary. The radical push through the nuclear option and then pack the courts with unimpeded judges who, by current estimations, will serve an average of 25 years. The right is focused on packing the courts because their agenda is so radical that they are unwilling to come directly to you, the American people, and tell you what they intend.

Without the filibuster, President Bush will send over more and more judges of this nature, with perhaps three or four Supreme Court nominations. And there will be nothing—nothing—that any moderate Republican friends and I will be able to do about it.

Judges who will influence the rights of average Americans: The ability to sue your HMO that denies you your rights; the ability to keep strip clubs out of your neighborhood—because they make zoning laws unconstitutional—without you paying to keep the



person from building; the ability to protect the land your kids play on, the water they drink, the air they breathe, and the privacy of your family in your own home.

Remember, many of my colleagues say there is no such thing as a right to privacy in any iteration under the Constitution of the United States of America. Fortunately, we have had a majority of judges who disagreed with that over the past 70 years. But hang on, folks. The fight over judges, at bottom, is not about abortion and not about God, it is about giving greater power to the already powerful. The fight is about maintaining our civil rights protections, about workplace safety and worker protections, about effective oversight of financial markets, and protecting against insider trading. It is about Social Security. What is really at stake in this debate is, point blank, the shape of our constitutional system for the next generation.

The nuclear option is a twofer. It excises, friends, our courts and, at the same time, emasculates the Senate. Put simply, the nuclear option would transform the Senate from the so-called cooling saucer our Founding Fathers talked about to cool the passions of the day to a pure majoritarian body like a Parliament. We have heard a lot in recent weeks about the rights of the majority and obstructionism. But the Senate is not meant to be a place of pure majoritarianism.

Is majority rule what you really want? Do my Republican colleagues really want majority rule in this Senate? Let me remind you, 44 of us Democrats represent 161 million people. One hundred sixty-one million Americans voted for these 44 Democrats. Do you know how many Americans voted for the 55 of you? One hundred thirty-one million. If this were about pure majorities, my party represents more people in America than the Republican Party does. But that is not what it is about. Wyoming, the home State of the Vice President, the President of this body, gets one Senator for every 246,000 citizens; California, gets one Senator for 17 million Americans. More Americans voted for Vice President Gore than they did Governor Bush. By majoritarian logic, Vice President Gore won the election.

Republicans control the Senate, and they have decided they are going to change the rule. At its core, the filibuster is not about stopping a nominee or a bill, it is about compromise and moderation. That is why the Founders put unlimited debate in. When you have to—and I have never conducted a filibuster—but if I did, the purpose would be that you have to deal with me as one Senator. It does not mean I get my way. It means you may have to compromise. You may have to see my side of the argument. That is what it is about, engendering compromise and moderation.

Ladies and gentlemen, the nuclear option extinguishes the power of Independents and moderates in this Senate. That is it. They are done. Moderates are important only if you need to get 60 votes to satisfy cloture. They are much less important if you need only 50 votes. I understand the frustration of our Republican colleagues. I have been here 32 years, most of the time in the majority. Whenever you are in the majority, it is frustrating to see the other side block a bill or a nominee you support. I have walked in your shoes, and I get it.

I get it so much that what brought me to the Senate was the fight for civil rights. My State, to its great shame, was segregated by law, was a slave State. I came here to fight it. But even I understood, with all the passion I felt as a 29-year-old kid running for the Senate, the purpose—the purpose—of extended debate. Getting rid of the filibuster has long-term consequences. If there is one

thing I have learned in my years here, once you change the rules and surrender the Senate's institutional power, you never get it back. And we are about to break the rules to change the rules.

I do not want to hear about "fair play" from my friends. Under our rules, you are required to get  $\frac{2}{3}$  of the votes to change the rules. Watch what happens when the majority leader stands up and says to the Vice President—if we go forward with this—he calls the question. One of us, I expect our leader, on the Democratic side will stand up and say: Parliamentary inquiry, Mr. President. Is this parliamentarily appropriate? In every other case since I have been here, for 32 years, the Presiding Officer leans down to the Parliamentarian and says: What is the rule, Mr. Parliamentarian? The Parliamentarian turns and tells them.

Hold your breath, Parliamentarian. He is not going to look to you because he knows what you would say. He would say: This is not parliamentarily appropriate. You cannot change the Senate rules by a pure majority vote.

So if any of you think I am exaggerating, watch on television, watch when this happens, and watch the Vice President ignore—he is not required to look to an unelected officer, but that has been the practice for 218 years. He will not look down and say: What is the ruling? He will make the ruling, which is a lie, a lie about the rule.

Isn't what is really going on here that the majority does not want to hear what others have to say, even if it is the truth? Senator Moynihan, my good friend who I served with for years, said: You are entitled to your own opinion but not your own facts.

The nuclear option abandons America's sense of fair play. It is the one thing this country stands for: Not tilting the playing field on the side of those who control and own the field.

I say to my friends on the Republican side: You may own the field right now, but you won't own it forever. I pray God when the Democrats take back control, we don't make the kind of naked power grab you are doing. But I am afraid you will teach my new colleagues the wrong lessons.

We are the only Senate in the Senate as temporary custodians of the Senate. The Senate will go on. Mark my words, history will judge this Republican majority harshly, if it makes this catastrophic move.

Ms. ERNST. I yield the floor.

The PRESIDING OFFICER (Ms. BALDWIN). The Democratic whip.

Mr. DURBIN. I ask unanimous consent that I be recognized for up to 15 minutes and Senators PADILLA and CANTWELL for up to 5 minutes each prior to the scheduled vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### VOTING RIGHTS ACT

Mr. DURBIN. Madam President, there are several issues swirling around the Senate at this moment. They relate to the voting rights of Americans. They relate to the voting rights of Senators—interesting that they would both be on parallel tracks as we debate them on the floor. It appears that the voting rights of Americans is witnessing a historic shift. You see, my Democratic Party, and yours, in history has a spotty record when it comes to voting rights. In fact, Southern States—then in the thrall of the Democratic Party—wrote a terrible record after the Civil War.

We released African Americans from slavery, guaranteed them the right to vote, and then watched what happened. There was jubilation all over the country, I believe, for the most part, and there was jubilation in the southern States by African Americans who had newfound freedoms they never dreamed of with the end of slavery. And they took them to heart. They did register to vote.

And there were dramatic differences in many States because in many States the slave population, the African-American population, was much larger than any voting had ever reflected, and now they had the chance. And as they were elected to local offices and even congressional seats and even a senatorial seat, there was a backlash from the White population.

This period of Reconstruction after the Civil War lapsed into a period of denial of the right to vote and elaborate plans by Whites—White Democrats, I might add—in southern States to manufacture obstacles to the voting of African Americans—poll taxes, for example, literacy tests, things that had little or nothing to do with citizenship but were designed expressly to jeopardize the voting opportunities for those without advanced educations or the kind of clout necessary to overcome.

And so the net result was the South went White again in terms of its political leadership. It was known as Jim Crow. And the Democratic Party of that day was behind it. The opposition came from Abraham Lincoln's party, the Republican Party. They were the ones for abolition of slavery. They were the ones who supported Reconstruction. They were the ones, by and large, who sent the Federal troops in to enforce equality in the South. But, ultimately, sadly, as a result of a brokered Presidential election, there was a concession made that gave to the Democrat Party-controlled South States' rights to determine voting standards. And that was the situation that applied in the United States from that period of time in the mid-19th century, until the 1960s, when this issue was debated anew, right here in Washington, right here in this Chamber.

And those who opposed striking down the Jim Crow laws, those who opposed efforts to deny to African Americans the right to vote, asserted one abiding principle: States rights. The States should be allowed to make this decision. It didn't go very far. It took a lot of years of debate, I might add, I don't want to oversimplify it.

But anyone who took the time to read this book, the Constitution of the United States, understands it is explicit. It doesn't take long to read the sections that are applying.

Listen to this and think in your mind whether there is any question who has the authority to determine the rules of Federal elections. And I read: "Article I, section 4—The Times, Places, and